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EXAMINER	
JACOBS, LASHONDA T	
ART UNIT	**PAPER NUMBER**
2157	

DATE MAILED: 10/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/438,437	ACHTERMANN ET AL.	
	Examiner	Art Unit	
	LaShonda T. Jacobs	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 August 2003* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Response to Amendment

This Office Action is in response to Applicant's Request for Reconsideration filed on August 11, 2003. Claims 1-22 are presented for further examination.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims **1**, **4**, **5**, **9**, **11**, **16**, and **18** are rejected under 35 U.S.C. 102(b) as being anticipated by Artsy.

As per claim **1**, Artsy discloses a data processing system for bulk data transfer comprising:

- a source data processing system for distributing data to one or more target data processing systems (col. 5, lines 21-40);
- one or more fan-out nodes for transferring said data between said source system and each of said one or more target data processing systems and transferring result information between said one or more target data processing systems and a pre-selected set of one or more data processing systems for managing data distributions (col. 5, lines 21-40, lines 65-67 and col. 6, lines 1-22).

As per claim **4**, Artsy discloses:

- receiving said data from said source data processing system by a first fan-out node (col. 5, lines 21-40, lines 65-67 and col. 6, lines 1-22);
- sending said data to a second fan-out node (col. 5, lines 21-40, col. 6, lines 1-22, lines 66-67 and col. 7, lines 1-6); and
- sending said data from said second fan-out node to one or more said target data processing systems (col. 5, lines 21-40, col. 6, lines 1-22, lines 66-67 and col. 7, lines 1-6).

As per claim **5**, Artsy discloses:

- wherein source data processing system distributes said data in response to a request from at least one said target data processing systems (col. 5, lines 21-40, lines 65-67, col. 6, lines 1-22, lines 60-67 and col. 5, lines 1-6).

As per claims **9** and **16**, Artsy discloses:

- transferring said data via a first set of one or more fan-out nodes to one or more endpoints systems (col. 5, lines 21-40); and
- transferring results information via a second set of said one or more fan-out nodes from said one or more endpoints to a pre-selected set of one of more data processing systems for managing data distributions, said results information generated in response to said step of transferring said data (col. 6, lines 1-22, lines 66-67 and col. 7, lines 1-6).

As per claims **11** and **18**, Artsy discloses:

- wherein the step of transferring said data is performed in response to a request received from an application on at least one said plurality of endpoints (col. 6, lines 60-67, col. 7, lines 1-6, col. 8,lines 29-38 and col. 9, lines 1-9).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims **2**, **6-7**, **10**, **12**, **17** and **19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Artsy in view of Fujino et al. (hereinafter, "Fujino", 6,085,222).

As per claims **2**, **6**, **10**, and **17**, although Artsy shows substantial features of the claim invention (discussed above), it fails to disclose:

- wherein each said of one or more fan-out nodes is operable for caching at least a portion of a data distribution and at least a portion of said result information.

However, the use and advantages for caching data is well known to one skilled in the relevant art at the time the invention was made as evidenced by the teachings of Fujino (col. 6, lines 4-11).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to modify Artsy's to a include a caching function within the managing node in order to cache data and return results information improving the performance of the system.

As per claims **7**, **12**, and **19**, Artsy discloses:

- a list of target data processing systems to receive the data (col. 5, lines 21-40);

- an identifier of a method by which the target machines will receive and process data (col. 6, lines 66-67, col. 7, lines 1-6, col. 8, lines 29-38 and col. 9,lines 1-9)
- an identifier of a notification method by which said result information from each endpoint system will receive by said pre-selected set of one of more data processing systems for managing data distributions (at least implicitly) (col. 6, lines 60-67, col. 7,lines 1-6, col. 8, lines 29-38 and col. 9, lines 1-9).

5. Claim **3**, **14**, and **21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Artsy in view of Nemirovsky et al. (hereinafter, "Nemirovsky", 6,477,562).

As per claim **3**, although Artsy shows substantial features of the claimed invention (discussed above), it fails to explicitly disclose:

- wherein a data distribution has a pre-selected priority, said pre-selected priority operable for determining an availability of resources.

However, Nemirovsky discloses a multi-streaming processor for streaming one or more instruction threads comprising:

- wherein a data distribution has a pre-selected priority, said pre-selected priority operable for determining an availability of resources (at least implicitly) (col. 5, lines 61-67 and col. 6, lines 1-2).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to incorporate a priority record in Artsy's system issuing priority to data in order to give priority to the resources.

As per claims **14** and **21**, although Artsy show substantial features of the claimed invention (discussed above), it fails to explicitly disclose:

- determining an availability of a network connection for said transferring results information in response to said one said selected pre-selected set priority values.

However, Nemirovsky discloses a multi-streaming processor for streaming one or more instruction threads comprising:

- determining an availability of a network connection for said step of transferring said results information in response to said one of said pre-selected set of priority values (at least implicitly) (col. 5, lines col. 6, lines 2-16).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to incorporate the step of determining the availability of network connection for transferring results information in response to said one of said pre-selected set of priority values in Artsy's system allowing the network to process responses in a timely and efficient manner.

6. Claim **8** rejected under 35 U.S.C. 103(a) as being unpatentable over Artsy in view of Chang et al (hereinafter, "Chang", 5,367,643).

As per claim **8**, although Bereiter shows substantial features of the claimed invention (discussed above), it fails to explicitly disclose:

- wherein said request is assigned a pre-selected distribution priority and said request is enqueued in accordance with said pre-selected distribution priority.

However, Chang discloses a generic adapter manager that organizes packets into queues comprising:

- wherein said request is assigned a pre-selected distribution priority and said request is enqueued in accordance with said pre-selected distribution priority (col. 5, lines 10-25, lines 33-36, lines 58-64, and col. 19, lines 21-33).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to incorporate the step of managing data distributions enqueues in Artsy's system allowing requests to be removed in the same order they were entered.

7. Claims **13**, **15**, **20**, and **22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Artsy in view of Fujino and in further view of Nemirovsky.

As per claims **13** and **20**, although Artsy in view of Fujino show substantial features of the claimed invention (discussed above), it fails to explicitly disclose:

- assigning one of pre-selected set of priority values to each data distribution; and
- determining an availability of a network connection for said step of transferring said data in response to said one of said pre-selected set of priority values.

However, Nemirovsky discloses a multi-streaming processor for streaming one or more instruction threads comprising:

- assigning one of pre-selected set of priority values to each data distribution (col. 5, lines 61-63); and
- determining an availability of a network connection for said step of transferring said data in response to said one of said pre-selected set of priority values (at least implicitly) (col. 5, lines col. 6, lines 2-16).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to incorporate the steps assigning one pre-selected set of priority values to each data distribution and determining the availability of network connection to transfer data in response to set of priority values in Artsy's system allowing data to be process in a timely and efficient manner according to their priority value.

As per claims **15** and **22**, although Artsy in view of Fujino show substantial features of the claimed invention (discussed above), it fails to explicitly disclose:

- assigning a distribution lifetime value to each data distribution; and
- aborting said step of transferring said data in response to an unavailability of said connection for a time interval corresponding to said distribution lifetime.

However, Nemirovsky discloses a multi-streaming processor for streaming one or more instruction threads comprising:

- assigning a distribution lifetime value to each data distribution (at least implicitly) (col. 7, lines 17-25); and
- aborting said step of transferring said data in response to an unavailability of said connection for a time interval corresponding to said distribution lifetime (at least implicitly) (col. 5, lines col. 6, lines 2-16).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to incorporate the steps assigning a distribution lifetime value to the data and aborting the transfer of data in Artsy's system allowing data to be deleted when time period has expired.

Response to Arguments

9. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

In request for reconsideration filed on August 11, 2003, the following factual arguments are noted:

a. With respect to the limitation in claim 1, reciting a source data processing system for distributing data to one or more target data processing systems, Bereiter purportedly teaches this element in claim 1 in disclosing computing resources organized into one or more managed regions, each region being managed by a management server servicing one or more gateway machines and each gateway machines servicing a plurality of endpoint machines. This limitation of claim 1 is allegedly further disclosed in teaching in Bereiter directed to geographically disbursed nodes in an overall environment managed in a distributed manner, with the managed environment logically broken own into a series of loosely connected managed regions each with its own management server for managing local resources; the network may also include other servers for carrying out other distributed network functions such as name server, security servers, file servers etc. These teachings in Bereiter, by their express terms, do not disclose a source data processing system for distributing data to one or more target data processing systems.

b. With respect to the limitation reciting one or more fan-out nodes for transferring data between the source system and one or more target data processing systems, and transferring result information to a pre-selected set of one or more data processing systems for managing data distributions, the Examiner identifies teaching in Bereiter drawn to the geographically disbursed nodes in an environment that is managed in a distributed manner, preferably broken down into a

series of loosely connected managed regions each with its own management server. The Examiner further identifies teaching in Bereiter disclosing that a network may typically include other servers such as name servers etc. and multiple services coordinate activities across the enterprise and permit remote site management and operation, each server serving a number of gateway machines each of which in turns support a plurality of endpoints, in which coordinates all activities within the managed regions using a terminal node manager. These teachings do not explicitly disclose one or more fan-out nodes for transferring data between the source system and each of one or more target data processing systems, and transferring result information to a pre-selected set of one or more

c. Bereiter expressly discloses that each of the endpoint machines includes a client component, which is a low cost low maintenance application that is "dataless" in sense that system management data is not cached or stored in a persistent manner on the client. Thus, interpreting Bereiter to teach a system for distributing data to one or more target data processing systems would be inconsistent with the express teaching in Bereiter. It is illogical foe Bereiter to teach a source data processing system for distributing data to one or more targets. Bereiter does not teach the invention of claim 1.

d. Claims 5 depend from claim 1 and Bereiter do not disclose a source data processing system distributing data in response to a request from at least one target data processing system.

e. Claim 7 is directed to the system of claim 6 in which the request (recited in claim 5 from which 6 depends). Applicants note that claim 7 incorporates the limitations of claim 6 by reference, as a dependent claim depending therefrom. Claim 6 has not been rejected as being

anticipated by Bereiter. A necessary condition that claim 7 be anticipated is that claim 6 is anticipated. Claim 7 is not anticipated by Bereiter.

f. Claim 9 has been rejected on teaching in Bereiter that discusses transparent gateways, and a management environment broken down in series of loosely connected managed regions each with its own management server (previously discussed). The teaching in Bereiter referred to by its express terms, does not disclose transferring data, as recited in claim 9, and transferring results information via the second set of the one or more fan-out nodes...in response to the step of transferring the data.

g. Claim 16 is discussed in conjunction with claim 9 the Applicant's also respectfully contend that claim 16 is not anticipated by Bereiter.

h. Claim 11 depends from 9 Bereiter does not anticipate claim 11.

i. Claim 12 depends from claim 11 Applicants respectfully contend that Bereiter has not been shown to teach the identical invention of claim 12.

j. Claim 19 is directed to a program product and recites a limitation paralleling the limitations of claim 12 Applicants respectfully assert that claim 19 is also allowable or Bereiter.

k. Claim 2 depends from claim 1 and recites the system thereof in which each of the one or more fan-out nodes is operable for caching at least a portion of the data distribution and at least a portion of the result information. Bereiter admittedly fails to teach the limitation of claim 2. Additionally, for the reasons discussed hereinabove in conjunction with line 1, the Applicants also respectfully submit that Bereiter fails to teach one or more limitations of claim 2 incorporated by reference therein for the dependency in claim 1. The Examiner relies on Fujino as teaching the admittedly missing limitation in claim 2. Fujino *is* directed to a distributed

communication system with adaptive data sending control in a computer network. Claim 2 has been rejected on teaching in Fujino discussing a caching function in a gateway nearest the client so that useless communications can be reduced more. Thus, the teaching in Fujino directed to caching in a gateway does not disclose caching a portion of a data distribution and at least a portion of result information.

l. The Applicants respectfully disagree with the assertion as to obviousness for several reasons. There is no reason to engraft caching into the system of Bereiter, suggested in one of the possible sources thereof. *See* MPEP § 2143.01. Indeed, to the contrary, Bereiter is directed to a mechanism for auditing licensed program usage in a distributed computer environment. There is nothing in Bereiter to suggest that the volume of management data is sufficient to warrant caching. Moreover, the teaching in Bereiter referring to caching discloses that the client component is a low cost low maintenance application that is dataless in the sense that system management data is not cached or stored there in a. persistent manner. (Bereiter, column 4, lines 3942) (emphasis added). The Applicants have found no other reference to caching in Bereiter. Thus, to the extent of the aforementioned teaching at least, Bereiter teaches away from caching. Additionally, a teaching or suggestion to combine or modify references must be clear and specific, and broad conclusory statements regarding the teachings of the references are not sufficient.

m. Additionally, claims 6, 10 and 17 have been rejected on the same basis as claim 2. Claim 6 is directed to the system of claim 5 in which a pre-selected one of the one or more data processing systems for managing data distributions enqueues the request in a database. The limitations of claim 6 have not been addressed at all in the light of the asserted teachings of

Bereiter and Fujino. Consequently, the Applicants respectfully assert that a prima facie showing of obviousness has not been made with respect to claim 6, and therefore claim 6 is allowable 35 U.S.C. § 103 over Bereiter and Fujino. With respect to claims 10 and 17, each recite an express limitation that parallels the limitation of claim 2. For at least the reasons discussed above in conjunction with claim 2, the Applicants also respectfully assert that a prima facie showing of obviousness has not been made with respect to claims 10 and 17.

n. Claim 3 is directed to the system of claim 1 in which a data distribution has a pre-selected priority. The pre-selected priority is operable for determining an availability of resources for transferring of the data and the transferring of the result information. Bereiter admittedly fails to teach or suggest the limitation of claim 3. (Paper No. 3, page 5; Paper No. 5, page 5.) Nemirovsky is relied upon as teaching the missing limitation. (Id.) However, Nemirovsky is directed to digital microprocessors and in particular to microprocessors operating with multiple processing streams. Nemirovskv does not address data transfer over a network. Indeed the teaching relied upon in *Nemirovsky* discloses that each stream in a multi-streaming processor is assigned a priority representing the associated streams claimed processing resources relative to competing *instruction streams.* (Nemirovsky, column 5, line 60 through column 6, line 2) (emphasis added). Consequently, the teaching in Nemirovsky neither discloses or suggests a data distribution having a pre-selected priority, the pre-selected priority operable for determining an availability of resources. Additionally, reliance on implicit teaching requires that objective evidence be provided that demonstrates that the inherent characteristic is necessarily present in the thing described in the reference and that it would be so recognized by persons of ordinary skill in the art. MPEP § 2112. No such evidence has been provided.

o. Claim 14 is directed to a method of claim 13 and further including the step of determining an availability of a network connection for transferring of results information in response to one of the pre-selected set of priority values. Claim 14 has been rejected in view of Nemirovsky allegedly teaching, at least implicitly, the limitations thereof. (Paper No. 3, page 6; Paper No. 5, page 5.) However, as discussed in conjunction with claim 3, the teaching in Nemirovsky does not address the determination of an availability of a network connection based on a selected set of priority values.

p. Claim 4 is directed to the system of claim 1 in which the one or more fan-out nodes comprises a plurality of fan-out nodes, and wherein the transferring of the data comprises receiving data from the source data processing system by a first fan-out node, sending data to a second fan-out node, and sending the data from the second fan-out node to one or more *of* the target data processing systems. Bereiter admittedly fails to disclose the limitations *of* claim 4. Minear allegedly discloses the limitation of claim 4. Id. The Applicants respectfully disagree. Minear does not address the limitations of claim 4. Thus, the Applicants respectfully assert that the references, alone or in combination, do not teach or suggest all of the limitations of claim 4. (Paper No. 3, page 7.) However, as discussed above, the firewalls of Minear are not fan-out nodes.

q. Claim 8 depends from claim 6 and recites the system thereof in which the request is assigned a preselected distribution priority and the request is enqueued in accordance with the preselected distribution priority. (Claim *6* is directed to the system of claim *5* in which a preselected one of the one or more data processing systems for managing data distributions enqueues the request in a database.) Bereiter admittedly fails to teach the limitation of claim 8.

Chang is directed to a generic high bandwidth adapter having data packet memory for temporary storage of variable length data packets thereby providing a data interface between system buses, switching fabrics, transmission media and a variety of LANs. Chang allegedly teaches the limitation of claim 8 in Chang in disclosing that the adapter organizes packets into queues, each queue comprising a linked list of data packets having a given priority level and destined for the same logical input/output port or to be processed in a similar manner by a processor subsystem, the queues organized into a queue set for each input/output port. The express teaching of Chang referred to does not disclose or suggest the limitations of claim 8, by their plain terms, and no rationale evidencing that the limitations are inherent in Chang has been provided.

r. Claim 13 is directed to the method of claim 10 and further including the steps of assigning one of a pre-selected set of priority values to each data distribution, and determining an availability of a network connection for the step of transferring the data in response to the one of the pre-selected set of priority values. Bereiter and Fujino are relied upon as teaching the limitations of claim 13 incorporated therein through its dependency on claim 10. As an initial matter, as discussed hereinabove in conjunction with, inter alia, claim 10, the Applicants respectfully disagree that these limitations have been shown to be taught or suggested by Bereiter in view of Fujino. Moreover, the express limitation of claim 13 is admittedly missing in Bereiter and Fujino. For the reasons discussed in conjunction with claim 3, the Applicants respectfully contend that the teachings in Nemirovsky have not been shown to teach either explicitly or implicitly, the limitations of claim 13. In sum, Nemirovsky is directed to a system for assigning priorities associated with an instruction stream relative to competing instruction streams in a

multi-streaming processor. Thus, neither Bereiter, Fujino or Nemirovsky, alone or in combination, teach or suggest all of the limitations of claim 13.

s. Claim 15 is directed to the method of claim 13 and further including the steps of assigning a distribution lifetime value to each data distribution, and aborting the step of transferring the data in response to an unavailability of the connection for a time interval corresponding to the distribution lifetime. As discussed hereinabove, in conjunction with claims 13 and 10, the limitations of which are incorporated into claim 15, the Applicants respectfully contend that Bereiter and Fujino, alone or in combination, fail to teach these limitations incorporated in claim 15 by reference. Additionally, Bereiter and Fujino admittedly fail to disclose the express limitations of claim 15. Plainly, these teachings do not disclose a step of aborting a step of transferring data in response to an unavailability of a connection time.

t. Claim 22 has been rejected on the same ground as claim 15 as being directed to a program product including instructions for performing operations paralleling the method steps of claim 15. For at least the reasons discussed in conjunction with claim 15, the Applicants also respectfully assert that claim 22 is allowable under 35 U.S.C. § 103 over Bereiter, Fujino and Nemirovsky.

u. The Examiner asserts that with respect to the alleged factual arguments a, c and d that the Applicants have not satisfied the requirements of 37 C.F.R. ~ 1.111 (b) in that the Applicants' amount to a general allegation that the claims define a patentable invention without specifically pointing out how the claims distinguish over the references. The Applicants respectfully disagree. As an initial matter, the Examiner's summarization of the Applicants' reply does not reflect the full scope of the Applicants' showings. The Applicants have addressed the teachings

of the references as applied in the rejections of the claims, as evidenced by the Applicants' First Reply, and hereinabove. The Applicants also note that in several instances (see e.g. the rejections of claims 3, 13, 14, 20, 21 and 22) the claim elements are asserted to be implicitly taught by the references without any explanation or analysis as to how the reference or references implicitly teach the claim element. The Examiner is respectfully reminded that where the when an reference is complex or shows or describes inventions other than that claimed by the Applicants, the particular part relied upon must be **designated** as nearly as practicable, and, if not apparent, the pertinence of each reference must be clearly explained. 37 C.F.R. § 1.104(c)(2). The initial burden is on the Examiner to present a case of unpatentability. MPEP § 2107.02 (citing *In re Oetiker,* 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992)).

In considering (a)-(u), Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaShonda T. Jacobs whose telephone number is 703-305-7494. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 703-308-7562. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

LaShonda T. Jacobs
Examiner
Art Unit 2157

ltj
October 20, 2003

ARIO ETIENNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100